UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,478	11/20/2003	Ram Pandit	12607	6866

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EXAMINER
LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
3624	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/716,478	PANDIT, RAM
Office Action Summary	Examiner	Art Unit	
	JOHNNA R. LOFTIS	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>02 April 2010</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-30</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-30</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   The following is a final office action upon examination of application number 10716478.

Claims 1-30 are pending and have been examined on the merits discussed below.

Response to Arguments

2.   Applicant's arguments filed 4/2/10 have been fully considered but they are not

persuasive. Applicant argues the cited references do not teach analyzing past load history based

on dedicated and common carrier rates. Examiner respectfully disagrees. On pages 231 and 234

several elements are considered, including past costs of common and private (dedicated) carriers.

Also included are carrier files which include information on types of carriers used, shipping

locations, freight terms, tariff classes, rate structures, percentages of inbound and outbound

shipments, average weight per shipment, etc. Examiner construes these data files to equate to

past load history since the data represents different elements of the load history that are

established and utilized to make business decisions with the model bases.

3.   Applicant also states the use of exponential smoothing to forecast future customer

demands does not use historic data to perform carrier selection. Examiner points out that while

exponential smoothing does forecast future data, the data used to perform the forecasting is

historic (time series) data that is processed using the smoothing techniques. Examiner upholds

prior rejections in view of Min.

4.   Applicants also argue that there I no teaching suggestion or motivation to combine

Strozniak and Min. KSR forecloses Applicant's argument that a specific teaching is required for

a finding of obviousness. KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strozniak,

"Sharing the Load", in view of Min, "A Personal-Computer Assisted Decision Support System

for Private Versus Common Carrier Selection."

As per claim 1, Strozniak teaches analyzing load data (page 5 - General Mills considers

the cost effectiveness of transporting Georgia-Pacific products instead of returning an empty

truck, while Georgia-Pacific is considering the cost effectiveness of using the General Mills

truck instead of the more expensive option of sending their own (dedicated) truck for transport),

the load data having a plurality of load data, wherein the load data has an origination location

and a destination location (page4, para3 – loads are analyzed to create shared routes between

manufacturers); automatically creating the tour schematic based on analysis of the load data

(page4, para3 – automated system wherein loads are analyzed to create shared routes between

manufacturers); and validating the created tour schematic (page8, top – routes are created based on business rules). Strozniak fails to explicitly teach analyzing *past* load history based on dedicated and common carrier rates.

Min teaches analyzation of historic data associated with load transport as a way to choose between common and private carriers. (table 1, pages 229, 235 and 236). In addition, Min also teaches the use of historic data to perform the carrier selection (page 234, methods such as exponential smoothing are used to evaluate data. It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the system of Strozniak the ability to analyze past load history based on dedicated and common carrier rates as taught by Min since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Strozniak teaches analyzing past load history further comprises setting the first accent point at a cluster of origination or destination locations (page7para3 – locations are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from Memphis to Dallas). Strozniak fails to explicitly teach analyzing *past* load history.

Min teaches analyzation of historic data associated with load transport as a way to choose between common and private carriers. (table 1, pages 229, 235 and 236). In addition, Min also teaches the use of historic data to perform the carrier selection (page 234, methods such as exponential smoothing are used to evaluate data. It would have been obvious to one of ordinary

skill in the art at the time of the invention to include in the system of Strozniak the ability to

analyze past load history based on dedicated and common carrier rates as taught by Min since the

claimed invention is merely a combination of old elements and in the combination each element

merely would have performed the same function as it did separately, and one of ordinary skill in

the art would have recognized that the results of the combination were predictable.

As per claim 3, Strozniak teaches the first accent point is set (page7para3 – locations are

set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route back

to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load

requiring transport from Memphis to Dallas) but does not explicitly teach the cluster of

origination or destinations exceeds a threshold value. Official notice is taken that it would have

been obvious to one of ordinary skill in the art at the time of the invention to consider threshold

values when setting accent points to keep scheduled tours within limits. If a tour is scheduled

between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to

Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak.

The threshold values would keep the costs down and would optimize deliveries.

As per claim 4, Strozniak teaches analyzing load further comprises establishing the first

lane from the first accent point to the second accent point if the load indicates a number of load

data from within the first accent point to within the second accent point (page7para3 – locations

are set based on load availability, ie, loads are being shipped from Dallas to Atlanta – the route

back to Dallas includes a stop in Memphis due to load requiring transport from Atlanta and load

requiring transport from Memphis to Dallas) but does not explicitly teach exceeding a threshold

value. Official notice is taken that it would have been obvious to one of ordinary skill in the art

at the time of the invention to consider threshold values when setting accent points to keep

scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be

costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas.

Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs

down and would optimize deliveries. Strozniak fails to explicitly teach analyzing *past* load

history.

Min teaches analyzation of historic data associated with load transport as a way to choose

between common and private carriers. (table 1, pages 229, 235 and 236). In addition, Min also

teaches the use of historic data to perform the carrier selection (page 234, methods such as

exponential smoothing are used to evaluate data. It would have been obvious to one of ordinary

skill in the art at the time of the invention to include in the system of Strozniak the ability to

analyze past load history based on dedicated and common carrier rates as taught by Min since the

claimed invention is merely a combination of old elements and in the combination each element

merely would have performed the same function as it did separately, and one of ordinary skill in

the art would have recognized that the results of the combination were predictable.

As per claim 5, Strozniak teaches creating the tour schematic further comprises linking

the first lane with a second lane, wherein the second accent point of the first lane is the same as

the first accent point of the second lane (page7para3 – locations are set based on load

availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes

a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from

Memphis to Dallas)

As per claim 6, Strozniak teaches creating the tour schematic further comprises linking

the second land with a third lane, wherein a second accent point of the second lane is the same as

the first accent point of the third lane, and further wherein a second accent point of the third lane

is the same as the first accent point of the first lane (page7para3 – locations are set based on load

availability, ie, loads are being shipped from Dallas to Atlanta – the route back to Dallas includes

a stop in Memphis due to load requiring transport from Atlanta and load requiring transport from

Memphis to Dallas)

As per claim 7, Strozniak teaches validating the created schematic further comprises

validating that the created schematic meets a set of business rules (page7, para4 - page8, para1 –

logistics are automated based on company rules).

As per claim 8, Strozniak teaches logistics are automated based on company rules (page7,

para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one

of a maximum length without driver break, a maximum total miles within the schematic and a

minimum total miles within the schematic. Official notice is taken that it would have been

obvious to one of ordinary skill in the art to consider business rules such as maximum and

minimum length when setting accent points to keep scheduled tours within limits. If a tour is

scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a

second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way",

so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 9, Strozniak teaches logistics are automated based on company rules (page7,

para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one

of a maximum length without driver break, a maximum total miles within the schematic and a

minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs down and would optimize deliveries.

As per claim 10, Strozniak teaches logistics are automated based on company rules (page7, para4 - page8, para1), but does not explicitly teach the set of business rules includes at least one of a maximum length without driver break, a maximum total miles within the schematic and a minimum total miles within the schematic. Official notice is taken that it would have been obvious to one of ordinary skill in the art to consider business rules such as maximum and minimum length when setting accent points to keep scheduled tours within limits. If a tour is scheduled between Dallas and Atlanta, it would be costly and time consuming to schedule a second lane to Pittsburgh then continuing on the Dallas. Pittsburgh would be "out of the way", so to speak. The threshold values would keep the costs down and would optimize deliveries..

Claims 11-20 are directed to the system for performing the method of claims 1-10. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 1-10 are applied to claims 11-20.

Claims 21-30 are directed to the article of manufacture with instructions for performing the method of claims 1-10. Since Strozniak teaches a collaborative logistics system running over the Internet (page 4), the same rejections as applied to claims 1-10 are applied to claims 11-30.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

    Pandit, US 7657452 – system and method for tour optimization

    Pandit, US 7634421 – system and method for tour planning

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

    A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

    Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-

6736. The examiner can normally be reached on M-F 8am-4:30pm.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Johnna R Loftis/
Primary Examiner, Art Unit 3624